

Application No. 10/021,602
Response Dated 7/8/08
Reply to Office Action of 1/8/08

REMARKS

Claims 5 and 44-57 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fisch, U.S. Patent No. RE35,589 in view of Tolles, U.S. Patent No. 4,171,866. Applicants respectfully traverse these rejections for the reasons set forth below and respectfully request that the rejections be withdrawn.

Examiner will note that claim 5 recites a pair of noncontiguous spacer segments attached to the bottom surface of the slip cover, with each spacer segment extending substantially contiguously with a full length of a different one of the opposed longitudinal edges of the cover slip.

In Paragraph 5 of the Office Action, Examiner properly recognizes that Tolles does not teach a pair of spacer segments extending along substantially a full length of a different one of the opposed longitudinal edges of the cover slip as recited in independent claim 5. The Examiner asserts, however, that this recited feature is allegedly taught by Fisch, and is shown particularly in Fig. 1b thereof. Applicants respectfully traverse Examiner's assertion and submit that pending claims 5 and 44-57 are patentable over the prior art of record.

In particular, Fisch is directed to a biological assembly including a slide (2), a pair of slide covers (3, 3') and an intermediate film layer (23) disposed between the slide (2) and the slide covers (3, 3'). In the biological assembly of Fisch, the film (23) is an integral layer as shown in Fig. 1a. As such, Fisch clearly does not teach a pair of **noncontiguous** spacer segments as recited in independent claim 5. Rather,

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Examiner will note that Fig. 1b of Fisch is a cross sectional view of the biological assembly shown in Fig. 1a, taken along line 1b-1b of Fig. 1a. Accordingly, the left and right portions of the film (23) shown in Fig. 1b are indeed contiguous since they are interconnected as shown in Fig. 1a and form portions of the integral film layer (23). Consequently, Applicants respectfully submit that for at least these reasons, the rejections of claims 5 and 44-57 are improper and should be withdrawn.

Moreover, as each of claims 5 and 44-57 recites a cover slip having a thickness of at least 0.85 mm and a hybridization chamber comprising an area between the spacer segments of at least 500 square mm, which features are not fairly taught or suggested by the prior art of record for the reasons set forth in Applicants' prior responses which are incorporated herein by reference in their entireties, Applicants submit that the rejections are improper for these reasons as well.

CONCLUSION

In view of the foregoing remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Please see the electronic fee calculation sheet for the charge in the amount of \$1,050 for the three months extension fee as required by 37 C.F.R. §1.17(a)(3). If any other fees are necessary, the Commissioner is hereby authorized to

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charge any underpayment or fees associated with this communication or credit any overpayment to Deposit Account No. 23-3000.

Respectfully submitted,

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